

REMARKS

Applicants have considered the outstanding official action. It is respectfully submitted that the claims are directed to patentable subject matter as set forth below.

Restriction has been required under 35 U.S.C. §121 as between the following groups of claims:

Group I - Claims 1-16 drawn to a package;

Group II - Claims 17-18 drawn to a method of
arranging blister packs; and

Group III - Claims 19-34 drawn to a display unit.

Applicants confirm the election of the claims of Group I, i.e., claims 1-16. Claims 17-34 have been canceled herein as being directed to non-elected subject matter. Applicants reserve the right to file a divisional application(s) containing claims directed to the non-elected subject matter.

The Examiner notes that two references identified in the Information Disclosure Statement filed October 31, 2003 (i.e., U.S. Design Patent No. D477,408 and D477,939) were not considered based on being directed to subject matter not relevant to the invention. Applicants note that a typographical error was made in the identification of the listed references and that the numbers should have read

"D447,408" and "D447,939". The Examiner has cited "D447,408" on PTO-892 attached to the outstanding official action. Applicants are submitting herewith a further PTO Form 1449 listing "D447,939". Consideration thereof is respectfully requested.

The outstanding rejections based on prior art are as follows:

- (1) Claims 1-14 under 35 U.S.C. §102(b) over U.S. Design Patent No. D,447,408 (Humphrey);
- (2) Claims 1-4 and 7-16 under 35 U.S.C. §102(e) over U.S. Design Patent No. D467,494 (Udwin); and
- (3) Claims 1-10 and 13-14 under 35 U.S.C. §102(b) over U.S. Patent Application Publication No. 2001/0007308 (Glassman).

The invention of the pending claims is directed to packages and blister packs for containing and displaying at least one article structured to allow the packages and blister packs to be free-standing and self-indexing when a plurality of packages or packs are aligned. This is advantageous due to the nature of use of packages and blister packs for display on surfaces, such as store shelves, to maintain a visible and neat display of the article within the package or blister pack, i.e., the package or pack remains upright, and when used with an automated facing device, is able to be moved forward without

toppling forward or becoming crushed when another package or pack is removed from the display. Conventional packages or blister packs tend to be unstable causing them to crush together and/or fall over resulting in a messy display (and thus reduced visibility of the article) or a display in which it is hard to remove a package or pack or to reinsert a package or pack once removed. Thus, a package or pack will not be displayed properly or in good condition resulting in nonconsideration of the product by a consumer and thus a missed sale.

Claims 1 and 2 have been amended to clarify what is being claimed as the invention. The claimed package and blister pack each include a first outward projecting portion in a bottom portion of the plastic pack or body, and at least one additional outward projecting portion having a depth and shape conforming to at least a portion of at least one article contained therein. The depth of the at least a portion of the first outward projecting portion is configured in relation to a depth of an outermost projecting portion of the at least one additional outward projecting portion so that said package or pack is self-indexing when said package or pack is aligned with one or more packages or packs of the same structure. Support is present in the specification at page 1, lines 10-12, page 4, lines 5-10 and

22-28, page 5, lines 4-8, and page 9, line 25 to page 10, line 3.

Claims 13 and 14 have been rewritten in independent form. Claims 13 and 14 had been dependent on claims 1 and 2 respectively. Claims 13 and 14 specifically claim that a portion of the at least one additional outward projecting portion is equal in depth to the depth greatest in the first outward projecting portion and a portion of the depth of the at least one additional outward projecting portion is of lesser depth than the depth greatest in the first outward projecting portion.

To anticipate within the meaning of 35 U.S.C. §102, the applied reference must teach each and every element of the claimed invention. Applicants respectfully submit that neither Humphrey, Udwin nor Glassman (which are each applied separately) teach each and every element as claimed and, thus, the claimed invention is not anticipated within the meaning of §102. More specifically, none of the applied references teach, as to claims 1 and 2, a package or blister pack having a structure which renders the package or pack self-indexing when the package or pack is aligned with one or more packages or packs of the same structure; or, as to claims 13 and 14, a package or blister pack having an outward projecting portion of a depth and shape conforming to at least one article wherein a portion thereof is equal

in depth to the depth greatest in a first outward projecting portion.

Humphrey discloses an ornamental design for a package having, as best shown in Figure 4, a base which has a depth greater than any other portion of the package. Thus, Humphrey does not teach each and every element of claims 13 and 14 which each require a portion of an additional outward projecting portion to be equal in depth to an outward projecting portion in the bottom of the package or pack. Further, Humphrey does teach each and every element of claims 1 and 2 which claim that the package or pack has portions of relative depth to render the package or pack self-indexing. Humphrey does not provide any disclosure regarding the disclosed package being self-indexing and in view of the base of the disclosed package or pack being the sole outermost projection, such would have the same problems as set forth above and in the "Background of the Invention" of the captioned application as to conventional packages and blister packs, i.e., toppling forward or being crushed resulting in a messy display and/or requiring time-consuming maintenance by personnel.

Udwin discloses an ornamental design for a T-ball kit including multiple article-containing compartments with a common bottom portion as best shown in Figures 1 and 4-5.

As clear from Figures 4 and 5, the bottom portion has an

outward projection with a depth greater than a depth of any other outward portion of the pack. Thus, Udwin does not teach each and every element of claims 13 and 14 or claims 1 and 2 as set forth above as to Humphrey. Udwin has the same shortcomings as Humphrey with respect to the claimed invention. Udwin does not teach a package or pack having an additional outward projecting portion with a portion equal in depth to an outermost projecting portion of an outward projecting portion in the bottom of the package or pack (claims 13 and 14), or teach a package or blister pack structured to be self-indexing (claims 1 and 2) as claimed.

Glassman discloses a clamshell package having the same shortcomings as Humphrey and Udwin with respect to the claimed invention. Glassman describes a package (best shown in Figures 1 and 4 with clamshell halves 12 and 14 wherein half 12 has shaped pocket areas 12a. The bottommost portion of area 12a has feet 38 and 40 to allow the package to freely stand upright for displaying a product. Half 14 has pocket areas 14a but such do not extend to a bottom area of the package or allow the package to stand upright. Thus, Glassman does not teach each and every element of claims 13 and 14 and claims 1 and 2 on the same basis as set forth above with respect to Humphrey and Udwin. Glassman also does not teach a package or pack having an additional outward projecting portion with a portion equal in depth to

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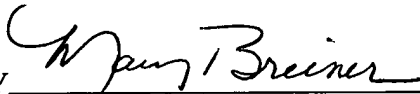
the depth of an outermost projecting portion of an outward projecting portion in the bottom of the package or pack (claims 13 and 14), or teach a package or blister pack structured to be self-indexing (claims 1 and 2) as claimed.

Accordingly, neither Humphrey, Udwin nor Glassman teach each and every element of the claimed invention and thus do not anticipate the claimed invention within the meaning of 35 U.S.C. §102. Withdrawal of the §102 rejections therefor is respectfully requested.

Reconsideration and allowance of the claims is respectfully requested.

Respectfully submitted,

ANTHONY J. CAFFERATA ET AL

By 

Mary J. Breiner, Attorney
Registration No. 33,161
S. C. JOHNSON & SON, INC.
1525 Howe Street
Racine, Wisconsin 53403-2236

Telephone: (703) 684-6885

Attachment - PTO-Form 1449